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U.S. DISTRICT COURT  
DISTRICT OF WYOMING

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TETON COUNTY WYOMING

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Stephan Harris, Clerk  
Cheyenne

D Hassler, Deputy Clerk  
CLERK OF DISTRICT COURT

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Attorney for Plaintiff

IN THE DISTRICT COURT OF TETON COUNTY, WYOMING

NINTH JUDICIAL DISTRICT

BONTECOU CONSTRUCTION, INC.  
a Wyoming corporation,

Plaintiff,

vs.

FIRST INTERSTATE BANK,  
a Montana Corporation,  
NADOWESSIOUX PROPERTIES, LTD.,  
a Texas limited partnership, CHARLES M.  
HADEN, JR., individually, SHELLEY HADEN,  
individually.

Defendants.

Civil Action. No. 15591

AMENDED COMPLAINT FOR DECLARATORY JUDGMENT

COMES NOW the Plaintiff, Bontecou Construction, Inc, (hereinafter referred to as "Bontecou"), by and through its undersigned counsel, The Richard Law Firm, P.C., and for its Complaint for Declaratory Judgment against the Defendants, state and allege as follows:

**PARTIES**

1. At all times hereinafter mentioned, the Plaintiff, Bontecou Construction, has been a corporation organized under the laws of the State of Wyoming, having its principal place of business in the State of Wyoming and is otherwise licensed to do business and is doing business in the State of Wyoming.

2. The Defendant First Interstate Bank is, upon information and belief, a bank organized under the laws of Montana and authorized to conduct business in the state of Wyoming.

3. At all times hereinafter mentioned, the Defendants, Nadowessieux Properties Ltd., is upon information and belief a shell entity organized under the laws of Texas and authorized to conduct business in the state of Wyoming.

**FACTUAL COMMON BACKGROUND**

4. There is currently pending in the district court in and for Teton County, an action styled Nadowessieux Properties Ltd. vs. Bontecou Construction, Civil Action No. 14630 in which Bontecou Construction seeks to foreclose a lien which was filed to secure and obtain payment for work performed and labor and materials supplied to Lot 1 of The Homes at Amangani, Teton County, Wyoming, according to that plat recorded in the Office of the Teton County Clerk on December 22, 1998, as Plat No. 943.

5. On or about October 21, 2010, Defendant First Interstate Bank sent, a Notice of Intent to Foreclose Mortgage by Advertisement and Foreclosure Sale on the Lot 1 Amangani Villa. See Exhibit A. Said notice is incomplete and may be defective.

6. Further, the proposed foreclosure sale should not take place on December 2<sup>nd</sup>. Bontecou Construction's foreclosure claim is scheduled for trial beginning on January 10, 2011. Further, Bontecou Construction performed work on Lot 1 at Amangani prior to the date of the mortgage by which First Interstate is purporting to conduct a foreclosure sale.

7. Plaintiff requests that the foreclosure sale be halted until such time as the priority between Bontecou Construction's lien and First Interstate Bank's mortgage is determined and settled by the Court, and until the upcoming trial is completed.

**JURISDICTION AND VENUE**

8. This Court has jurisdiction over this action pursuant to Wyo. Stat. § 1-37-102.

**CLAIM FOR DECLARATORY RELIEF**

9. Plaintiff incorporates herein by this reference the above paragraphs of this Complaint as if set forth fully herein.

10. There is a real, substantial and justiciable controversy between the parties concerning the relationship of the parties with respect to certain mortgages and a lien on Lot 1 of the homes at Amangani as more fully described below.

11. This is therefore an action for Declaratory Judgment pursuant to Wyo. Stat §§ 1-37-102 and 1-37-107.

12. On or about March 31, 2008, Bontecou filed its lien statement in Book 695 at Pages 1-43 in and for the County of Teton, State of Wyoming. Said lien encumbers that certain

real property owned by Nadowessieux Properties Ltd., and Mr. and Mrs. Charles Haden located at Lot 1 Homes of Amangani in Jackson, Wyoming, in Teton County, as described above.

13. The Defendant First Interstate Bank claims an interest in said property by virtue of a certain real estate mortgage dated on or about August 8, 2006, which is adverse to and otherwise threatens Bontecou's lien on the same property.

14. The lien statement of Bontecou has priority over the real estate mortgage of First Interstate Bank because said mortgage was perfected upon the real property described above subsequent to the provision of services by Bontecou Construction and subsequent to commencement of work on the premises or property described above, which is the subject matter of Bontecou Construction's lien. See e.g., Exhibit B, attached hereto.

15. Further, Plaintiff Charles Haden and Nadowessieux Properties, Ltd., have represented in pleadings filed with this Court, in Civil Action No. 14630, that work was performed prior to the contract with Bontecou Construction and, therefore, Bontecou Construction's lien would take priority over the mortgage claimed by First Interstate Bank. See, Exhibit C, Plaintiff's First Amended Complaint in Civil Action No. 14630, filed February 1, 2010, paragraph 13 ("Prior to Plaintiffs purchasing the property in question and prior to entering into the Contract, Plaintiffs hired Defendants to inspect the property (the "Pre-Purchase Inspection"). Plaintiff's agent, Scott Albrecht, paid Defendants \$3,500 to perform the Pre-Purchase Inspection.") (Emphasis supplied).

16. There are also priority issues regarding the mortgage itself which must be determined. The initial funding of the mortgage may have been paid off and satisfied. Additional disbursements were made and those disbursements may not relate to the original date of the recorded mortgage.

17. To the extent the proceeds from the foreclosure sale are insufficient to discharge in full all of the lien statement at issue, the proceeds from such sale must be prorated among the Plaintiff and Defendant.

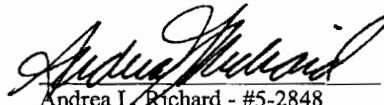
18. As a result of the foregoing, a case of actual controversy within this Court's jurisdiction exists between Bontecou Construction and First Interstate Bank with respect to the lien and mortgage at issue.

19. Bontecou is therefore entitled to an Order determining the parties' priorities, and further and other relief as the Court may deem just and proper.

WHEREFORE, Bontecou Construction respectfully requests that the Court enter judgment declaring that the Bontecou lien is prior to and otherwise superior to the mortgage of First Interstate Bank, and enter such further and other relief as the Court may deem just and proper in the premises.

RESPECTFULLY SUBMITTED this 29<sup>th</sup> day of November, 2010.

THE RICHARD LAW FIRM, P.C.



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*Attorney for Plaintiffs*

**CERTIFICATE OF SERVICE**

This is to certify that on this <sup>27<sup>th</sup></sup> ~~day of September~~ <sup>November</sup>, 2010 a true and correct copy of this **AMENDED COMPLAINT FOR DECLARATORY JUDGMENT** was served on the following via electronic mail and first class mail:

Mr. Charles M Haden  
Nadowessieux Properties, Ltd.  
764 Kuhlman Rd.  
Houston, TX 77024  
[Chaden44@aol.com](mailto:Chaden44@aol.com)  
[shelleyhaden@aol.com](mailto:shelleyhaden@aol.com)

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